

PLANNING COMMISSION

ACTION MINUTES

WEDNESDAY, OCTOBER 8, 2003

Chair Matheson called the meeting to order at 7:00 p.m. at the Twin Pines Senior and Community Center.

1. ROLL CALL:

Present, Commissioners: Mathewson, Gibson, Parsons, Torre, Dickenson, Long

Absent, Commissioners: Frautschi

Chair Mathewson announced that C Frautschi is out of town due to a family emergency.

Present, Staff: Community Development Director Ewing (CDD), Principal Planner de Melo (PP), City Attorney Savaree (CA), Zoning Technician Froelich, (ZT), Recording Secretary Flores (RS)

2. AGENDA AMENDMENTS:

Since Chair Mathewson must recuse himself from discussion of items 4A and 4C, he asked that the order for the Consent Calendar be changed to read 4B, 4C and 4A.

C Parsons suggested that approval of the transcript (Item 4C) be postponed until C Frautschi has a chance to review it. CA Savaree stated that the Commission could take action on the Resolution without approving the transcript.

CONSENT CALENDAR:

4B. Planning Commission Minutes of 9/2/03

Motion: By Commissioner Parsons, second by C Dickenson, to approve the Minutes of 9/2/03.

Ayes: Parsons, Dickenson, Long, Torre, Gibson, Mathewson

Noes: None

Absent: One

Motion passed: 6/0/1

Chair Mathewson recused himself from discussion of the next two items and handed the gavel to Vice Chair Gibson.

4C. Verbatim Transcript – 1814 Oak Knoll Drive – September 16, 2003 Hearing

It was agreed by consensus to delay approval of the Verbatim Transcript of the meeting of September 16, 2003 until C Frautschi has an opportunity to review it.

4A. Resolution Denying a Rear Yard Setback Variance at 1814 Oak Knoll Drive Consistent with Action Taken by the Planning Commission on September 16, 2003.

PP de Melo stated that the Resolution for denial was prepared after listening to the tape and going over the transcript of the 9/16/03 meeting.

C Parsons thought the Resolution was well written and commended staff for their efforts.

Motion: By Commissioner Parsons, second by Commissioner Dickenson, to adopt the Resolution denying a Rear Yard Setback Variance at 1814 Oak Knoll Drive.

Ayes: Parson, Dicksenson, Long, Torre

Noes: Gibson

Recused: Mathewson

Absent: Frautschi

Motion passed: 4/1/1/1

Acting Chair Gibson stated that this decision can be appealed to the City Council within ten days.

Chair Mathewson returned to the podium and, by way of explanation, mentioned that anyone recused from an item is required to leave the room.

3. COMMUNITY FORUM (Public Comments):

Bernadette Spillane, 1631 Robin Whipple Way, expressed her feelings about how her neighborhood had deteriorated due to traffic and parking problems, garbage on lawns, etc., and thanked C Long for inspiring her neighborhood to prepare a packet of information that they presented to the City Council, City Manager, and Planners. The problem was delegated to Sgt. Halleran, who met with representatives from all of the Notre Dame schools, and she was happy to report that they now have their neighborhood back. She expressed her gratitude to all the people involved, particularly Commissioners Long and Dickenson, Council Member Feierbach and Sgt. Halleran for their help. She cautioned the Commission that when they give a parking variance to a large institution like the University they need to consider the integrity of the neighborhoods that will be impacted.

5. PUBLIC HEARINGS:

5A. PUBLIC HEARING – 1502 Pine Knoll Drive

To consider a Single-Family Design Review to enlarge the existing main level by 803 square feet and add a new basement level of 408 square feet for a new total of 2,921 square feet for the existing single-family dwelling that is below the zoning district permitted 3,500 square feet for this site. (Appl. No. 03-0059)

APN: 044-342-390; Zoned: R-1B (Single-Family Residential); CEQA Status: Categorical Exemption per Section 15301, Class 1(e)(2)(a&b); Jim Westover (Applicant/Architect); James S. Bowler (Owner)

ZT Froelich summarized the staff report recommending project approval with the conditions as attached, and was available to answer questions from the Commission.

C Dickenson asked why an arborist report was not performed. ZT Froelich responded that this project was somewhat borderline, but that a rule of thumb that they use is within ten feet of any proposed project; the Zoning or Tree Ordinances do not state when an arborist's report is required. C Dickenson stated that he brought it up because on page 7 of the photographs it looks like there are two newly cut limbs that would have protruded onto the proposed addition, and he asked if anybody had walked the site to identify those two newly cut limbs. PP de Melo responded that typically the project plans are sent to all departments as well as the City arborist for comment. The arborist did not have any concerns relative to the proposed additions for this project and did not add any conditions of approval or require that an arborist report be prepared. PP de Melo added that staff did perform site visits and found that there are no protected trees affected by this addition, and that staff will have the opportunity to review it again as part of the building permit process.

C Torre asked if there is a closet in the room in the garage that is labeled a guest room. ZT Froelich was not sure if the framing right outside of the bathroom is intended to be a closet.

Jim Westover, Architect for the project, stated that it is a small closet and agreed that if it was acceptable to the Commission, the owner would be amenable to removing that closet and using that space as the office rather than the other room. However, if that would delay the project he would prefer that the project go ahead so that he can beat the weather.

C Gibson asked how they plan to match the new siding to the old siding. Mr. Westover stated that they plan to use a semi-transparent stain in the same hue. If they can't match it exactly they will use a slightly lighter or darker stain, but with enough difference so that it does not look like a near miss.

C Gibson asked if the back of the house is visible. Mr. Westover stated that from the back of the house he cannot see any neighbors down the hill.

Jim Bowler, owner, replied that every two or three years he has all of the trees trimmed, and in the Spring of this year he had someone come in to minimize the height of the back trees and they trimmed about two branches off of the side oak.

Chair Mathewson opened the Public Hearing. No one came forward to speak.

MOTION: By Commissioner Torre, seconded by Commissioner Dickenson, to close the public hearing. Motion passed.

Chair Mathewson asked staff if taking the closet out of the garage bedroom and leaving it in the interior one would be acceptable inasmuch as that leaves it at three bedrooms. PP de Melo responded that staff does not have a concern as long as the net bedroom increase is not more than one. By today's definition of a bedroom, if that closet is taken out, the room behind the garage would not be a bedroom and it is at the Commission's discretion as to how to jockey the floor plan. Chair Mathewson added that he recognized that there are plumbing facilities there.

C Gibson stated that he felt the link between the closet and the potential extra demand for parking is a tenuous one at best, but that issue will be discussed later in the meeting.

C Torre felt that the current parking standard needs some work but that they had the option of taking out the closet and pretending that it is not a bedroom. She felt that it was more desirable for the house to let the room off the garage be without a closet and she would be willing to allow the owner that option if it does not hold up his review. PP de Melo stated that it would not hold up the review if the Commission would allow staff the latitude to make the change when they submit for the building permits.

MOTION: By Commissioner Torre, seconded by Commissioner Dickenson, to adopt the Resolution approving the Single-Family Design Review at 1502 Pine Knoll Drive with the provision that access to a closet be removed either from the bedroom labeled "office" within the main body of the building or from the bedroom located in the garage labeled "guest room" on the plans at the option of applicant working with staff.

Ayes: Torre, Dickenson, Long, Parsons, Gibson, Mathewson

Noes: None

Absent: Frautschi

Motion Passed 6/0/1

Chair Mathewson noted that the item may be appealed to the City Council within ten days.

Chair Mathewson stated that some of the sections in Agenda Item 5B were deleted; the item was "over-noticed."

5B. PUBLIC HEARING – Amendment to Zoning Ordinance

To consider revision to Section 2 (Definitions), Section 4 (Residential Districts), Section 8 (Off-Street Parking and Loading), Section 13 (Design Review), and Section 24 (Secondary Dwelling Units) of the City of Belmont Zoning Code. The amendments will consider modifications to the aforementioned Zoning Ordinance sections and establishment of development standard thresholds to allow for administrative (non-discretionary) review and processing of new secondary unit applications consistent with California State Law AB1866, which went into effect on July 1, 2003. Planning Commission recommendations will be forwarded to the City Council for final action. (Appl. No. 03-0050); CEQA Status: Statutory Exemption per Section 15282; Applicant; City of Belmont

PP de Melo summarized the staff report, concluding his presentation by stating that, staff believes the proposed secondary unit zoning code modifications to Sections 2, 4, 8, 13 and 24 achieve the objectives of the Zoning Plan and the General Plan for the City and are within the limits and consistent with the new State requirements. The staff report included five Resolutions based on the various sections that would be required to be amended, as well as minutes from the July 15th Planning Commission Study Session as well as the May 13, 2003 Council Meeting.

Commissioners complimented PP de Melo on the thoroughness of the report.

C Gibson asked what affect AB 1866 has on Planned Development zones, if any. PP de Melo replied that staff did not believe that specific modifications were needed to Section 12 of the Zoning Code; PD's are governed by their own regulations. When a PD is established it establishes its own zone and staff did not believe it was necessary to put specific language in the PD section to specifically address secondary dwelling unit construction. If a PD were proposed that would include secondary units it would be established as part of that comprehensive PD zoning district. C Gibson asked what happens if somebody wants to build a second unit in an existing PD. CDD Ewing responded that a PD is not a residential zone per se; it is a planning zone. One could argue that if a particular PD designation is used to develop a single-family tract it is a residential zone at that point. Even though the code doesn't describe it as such, individual applications of that designation may be single-family and multi-family so it's a bit of a grey area.

C Gibson asked if it would be easier to get an addition approved by claiming it is a second unit. I.e., will the requirements for attached second units be easier than for ordinary expansion of a house? PP de Melo replied that existing single-family homes with a down-slope configuration with crawl space would be one area where it will to be easy for someone to convert uninhabitable space to a secondary dwelling unit. If someone wants to take on the added expense of bolstering the foundation adding up or out to create a second unit, that is their opportunity to do so as well but we need to create an ordinance that allows for an administrative review of at least a studio-sized unit. He added that since the State law has come into effect on July 1, there has been only one application for a secondary unit other than the application that you reviewed for 1802 Hillman Avenue which was to utilize an existing unit. Staff does not believe that once this zoning ordinance is adopted it is it's going to create a mad rush of people wanting to create a second unit

PP de Melo clarified for C Gibson that the zoning code changes apply only to the HRO-2 district. C Torre pointed out that on page 16 (section 47.3) of the staff report, the HRO-1 and HRO-3 districts are included. PP de Melo commented that that's a "good catch", and that staff would typically want to keep it in the HRO-

2 zone because that is the zoning district where there are existing homes. CDD Ewing added that it's a judgment call for the Commission and Council to make; staff's recommendation is HRO-2 and there may be some clearer language to show that, but if the Commission's decision is to recommend that HRO-1 and 3 also be allowed, that would be something they should consider.

Referring to other legislation that is very close to reaching the floor at the State Legislature, C Long asked if it makes sense for the Commission to spend time on this if they are going to have to start over in maybe three months. CDD Ewing commented that staff asked this question about six months ago when this new bill was put out on the floor of the Legislature. They decided to proceed when all the housing bills in Sacramento were put on a two-year basis; they assumed it would be about a year and a half before the second housing unit bill comes through. The hearing scheduled in November is to take testimony as to the effect of the existing legislation – it is just an information hearing, not an action hearing. He believes it could potentially be introduced for next year, but that's a six-month process. He added that the proposed legislation is not good from the City's perspective; they made the decision to go forward and not wait for the Legislature to decide what its next step will be.

C Long stated that the gist of this document appears to be on additions rather than conversions, and asked staff to speak to that issue. PP de Melo responded that if existing floor area is going to be converted as part of a secondary unit, they would still want to establish a maximum unit size for administrative review. The CUP requirement they are imposing would be on units that are greater than 640 square feet, units that have additions of greater than 400 square feet, but conversions can speak to conversion of existing floor area or conversion of uninhabitable space. All of the other development requirements have to be in place – height, FAR, etc. – but conversion can mean a couple of things. That issue can be discussed more fully in any draft language but staff envisioned creating thresholds for maximum unit sizes, whether they be an addition to the main structure, a detached structure or conversion of existing space, either habitable or uninhabitable, as part of these amendments for Section 24. Responding to C Long's question on page 5 of the staff report, under Maximum Unit Size (With Administrative Approval), staff clarified the intent of the second bullet point.

Responding to C Torre's question about how staff arrived at the 275-sq.ft. (sf) minimum size for an efficiency-sized unit, PP de Melo stated that it was not mandated by the State but came from researching other cities. They found that a legal efficiency-sized unit can be as small as 275 sf, but that it is at the Commission's discretion if they want to create a larger minimum unit size. C Torre questioned if the Commission wants to make it easy for an applicant to obtain an administrative secondary dwelling permit as opposed to a CUP secondary dwelling unit. She also questioned the 5,000 sf minimum lot size. Staff confirmed that most lots in Belmont are in the R1B zone and are a minimum of 6,000 sf, but that R1C lots can be as small as 5,000 sf. C Torre felt that 5,000 sf is a very small lot and she was not sure that it made sense to encourage people to put a secondary dwelling unit on a lot that small. She suggested that the Commission discuss increasing the minimum size to 10,000 sf, noting that if they want to maintain the integrity of the neighborhoods and ease parking, she is not sure they should be making it especially easy to add a secondary dwelling unit on lots that are that small because it is hard to get additional parking without turning the yard into cement.

C Long felt that changing the minimum to 350 sf with the maximum at 400 sf would make the definition too narrow within which applicants could apply for administrative approval of secondary units. He feels that the first question that needs to be answered is if they want to make it more onerous, and therefore limit the number of administrative approvals that are even possible.

Referring to page 11, C Long felt suggested that the term "kitchen facility" creates a huge loophole that may need to be corrected. PP de Melo noted that the code does not define a kitchen, but that it often means that it includes permanent fixtures and a microwave oven that can be removed. C Parsons did not believe this should be an issue, since many assisted living and college units now consider a room that has a microwave, sink and under-the-counter refrigerator to be a kitchen. CDD Ewing noted that the only permanent installation might be the sink, which would require a plumbing permit, so that if the Commission wants to regulate kitchens it could be with the sink.

Regarding the definition of a bedroom on page 17, under 8.1.4, C Long asked if this immediately adds thousands of bedrooms as a definition to the City of Belmont. CDD Ewing asked that they not talk about the definition of a bedroom with regards to parking with second units; they should talk about it when they talk about parking. Define how many spaces you want for second units based on bedrooms and then we'll define bedrooms at another time. 8.1.4 is applicable to all dwellings, not just second units.

Referring to their discussion in July, C Long recalled that two items were discussed at that time that did not appear in this report: 1) the amnesty issue, and 2) the issue of deed restriction. PP de Melo stated that a deed restriction is a document that will bind the property owner who establishes a second unit to specific standards related to construction of that unit. The biggest issue that they would want to include in any deed restriction language would be owner-occupancy. They would want to make sure that language in this deed restriction at a minimum binds the property owner to live in one of the two units. It is currently a zoning ordinance requirement but staff believes that if it is recorded against the deed of the house it has a little more teeth in terms of going after someone who would violate this particular issue. CDD Ewing added that the special benefit of the deed restriction is that future owners are also on notice through the Title Report that there is this requirement and the Commission does not want to deal with someone who bought the house as a rental property for both units. He believes that the deed restriction is the best way to stop to them before they make a mistake and it gives the City a stronger enforcement tool when needed.

Referring to "Other Factors to Consider" on page 7, which states that "Access to attached units shall not be located on the front of the primary dwelling," C Long felt that the requirement makes for some practical difficulties in some cases that may not be necessary. He suggested that unless landscape and paving and color are used to delineate a home's true front door while concealing the second unit front door, the goal is not so much to increase the number of second units that have front door access but rather to keep applicants from drilling into the side of their house with an unnatural entry that breaks up the continuity of the property. He'd like to explore if there's any way to avoid fixing one small thing and creating maybe some large problems.

Still referring to page 7, Mr. Long asked staff to consolidate the following two sentences: 1) Under "Design Review" it states that "While AB 1866 does allow cities to impose standards on second units that include architectural review, this review must be ministerial." 2) The last sentence of the next paragraph reads "As discussed earlier, staff continues to recommend that any such unit which includes an addition greater than 400 square feet outside the building envelope be subject to Single-family Design Review approval by the Planning Commission consistent with the current ordinance." PP de Melo explained that if the proposed secondary unit is under 400 square feet, we are imposing these development standards on an administrative basis so that they are at least in place, but if someone today wants to do an addition of 399 sf or less, there is not much we can do relative to design of that addition. We wanted strength in the design standards for additions of second units to create some consistency with the main unit. C Long responded that he is fine with that as long as it is clear in the final document.

C Long returned to the issue of deed restriction, referring to bullet three on page 8, "Recording of a deed restriction shall be a requirement of establishment of a new secondary unit." He questioned how one can obtain a deed restriction when you already have a deed and you're 15 years into 30 years of home ownership. He felt it would make more sense to have it be a requirement of construction of a new secondary unit rather than establishment. CDD Ewing responded that it's actually called a "restrictive covenant;" it's a separate document that identifies the legal description of a property so we know exactly what lot we're talking about, and then there's language that lists what those restrictions are that is recorded with the County on the property and becomes part of the title record.

C Parsons referred to a sketch of a detached unit that indicated the same setback (5') as accessory structures. After discussion, it was determined that the 5' indicated on the sketch was in error; it should read 15'. The language that the code recommends is 15', which is the same setback requirement as the main residence.

C Parsons referred to a sketch provided by staff for discussion purposes, illustrating where people could potentially locate an offstreet, uncovered parking space in the front yard. He suggested that there might need to be language in the code that talks about the maximum amount of paving that can be in the front yard.

C Parsons asked if a secondary dwelling unit would need to have a separate entrance. CDD Ewing responded that State law defines a second unit as an attached or detached residential dwelling unit which provides complete independent living facilities for one or more persons, and the Census' definition of a housing unit requires access to out of doors or to a common hall. He felt that one would argue that in a single-family home, a common hallway would not be independent living like it would be in the hall of an apartment building, for example. Therefore, for the purpose of defining independent living on an attached single-family dwelling, it would be a door to the outside. Chair Mathewson asked about a not locked off but screened off

porch with two separate doors. CDD Ewing replied that if the porch were not an enclosed habitable heated space, the two doors would open into the outdoors.

C Torre asked if staff is saying that under today's rules, a single-family driveway can be widened to 25' whether or not there is a secondary dwelling. PP de Melo responded in the affirmative. C Parsons asked what happens if there is a three-car garage. PP de Melo responded that it would be dependent on the required parking; if it's required to serve as parking for the main unit or the secondary unit it would have to be allowed. CDD Ewing added that if the Public Works Department issues an Encroachment Permit for a 45'-wide driveway it would be a separate but related issue.

C Parsons asked if there is anything in the old or new State law that would prevent them from limiting the percentage of paving on the front of a house. CDD Ewing stated that there is not, but reminded the Commission that the following statement regarding parking is in AB 1866: "Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking unless specific findings are made that parking in setback areas or tandem parking is not feasible based on specific site or regional topographic or fire and life safety conditions or that it is not permitted anywhere else in the jurisdiction." He interpreted the last clause to mean that whatever standards are imposed on second units have to be no tougher than what are imposed on other parking; a limit could be imposed that would be a percentage of front yard landscaping, or you could not have more than one parking space paved that is not within the driveway, but it can't be limited to second units – it would have to be limited across the board.

C Parsons asked for clarification of the new law with respect to minimum lot size, since it is his understanding that Palo Alto restricts secondary units to lots that are 1 acre or larger. Staff made the following points:

- Every city is allowed to establish its minimum lot size; the caution is that there is an intent language that you have to make provisions for secondary units in some reasonable way. All cities will have to look at what their general pattern of single-family development is and allow second units in the majority of those patterns as long as the majority of those lots are of reasonable size. If a city's ordinance precludes them, they risk running afoul of HCD.
- Staff decided to use 5,000 square feet because it is Belmont's minimum lot size for single-family homes.
- Cities who do not want to see second units proliferate are going to push that number to the higher range of reasonable and cities that are going to encourage them will use a smaller number. Belmont has to decide where it wants to be and staff will tell them when they think they are getting into an unreasonable or risky situation.
- The Palo Alto draft zone text amendment states that to allow a second unit the minimum site area must be 35% larger than the minimum site area required in the respective zoning districts. I.e., if the minimum lot size for that district is 6,000 sf, a lot must be 35% larger than 6,000 sf to qualify for an administrative processing. A 6,750-sf would, therefore, be required if the minimum lot size were 5,000 sf

C Parsons felt that they should consider that option, since it would also help with some of the parking problems. He suggested that they hold off any final recommendation on this item so that the absent Commissioner would have a chance to review it before anything is finalized. He also preferred deferring the discussion on the definition of a bedroom.

Chair Mathewson asked for clarification of the 400 sf Design Review provisions – the 400 sf outside the envelope vs. what they were discussing in another item. PP de Melo responded that he added one square foot to the threshold for single-family Design Review to create a round number for a detached unit or the provisions for when single-family Design Review would kick in for Commission review. If the Commission did not want to make any changes to the threshold, then the language could be changed to 399 sf. Chair Mathewson added that the applicability threshold section says new floor area of 400 sf or more but does not talk about within or outside the envelope. CDD Ewing responded that if it's new it's either outside or underneath or above.

C Parsons asked if we normally allow tandem garages. CDD Ewing replied that garages are specifically required to be 20 x 20 so a 12 x 40 would still be a one-car garage under our definition. C Long stated that

he has no problem with tandem parking because he believes it gets more cars off the street and off the front yard, and satisfies some of the other problems. Chair Mathewson disagreed. If there are a lot of drivers in the house he does not think they will go to the trouble to park if they have to wake somebody up to get them to move their car; he thinks it creates more on-street parking issues. Discussion ensued.

Chair Mathewson called for a recess at 8:55 p.m. The meeting resumed at 9:00 p.m.

C Gibson stated that he likes the idea of a minimum lot size plus 35% or some number larger than the minimum. He also suggested the possibility of eliminating HRO districts entirely from allowing secondary units, the reason being is that all that the San Juan Plan says about why we have HRO districts at all, which speaks to the issues of geology and traffic and so forth. C Long stated that the Central neighborhood would like to see R1A excluded since they also have some steep lots. He feels that if the property makes the findings it should be included; if we want to make more rigorous and strict findings now is the time to do it and make them apply globally. C Gibson noted that in the General Plan, the San Juan Plan is the distinction between HRO and other districts, and according to that, his opinion is it is appropriate to scratch secondary units from the HRO. C Torre reminded that they are discussing rules for the administrative process; she would not have a problem with denying administrative approval in the HRO, which leaves moot, for the moment, the issue of whether it's allowed under a CUP. Discussion ensued regarding whether San Juan Canyon should receive special treatment. PP de Melo pointed out that staff did not propose it as being allowed on an administrative basis, they only allowed it for the CUP; it is not either permitted or a conditional use now. Under the proposed amendments it would be permitted with a CUP in any case whether it meets 275 or 400 it would still be a CUP in the HRO zones.

CA Savaree was asked if she had any thoughts as to whether eliminating secondary units from HRO district entirely would be allowed under AB 1866. She responded that there are no clear answers to 1866 because nobody has been sued to date. She reminded the Commission that the whole purpose of 1866 is to provide encouragement for people to build second units so that cities address the housing crisis, and they were surprised when they got the HTD advice letters that cities do have a bit more discretion to retain some land use control than was expected. She believed that if you can make certain findings you can say that second units are inappropriate in particular areas, in view of the issues about traffic, geology, fire safety, water and sewer.

CDD Ewing quoted from the Government Code section, which confirmed that since the San Juan Hills Plan and the Western Hills Area Plan constitute substantial evidence to justify a lot of sewer, traffic and other issues you could probably do it on HRO. He added that they would want to look at it from a different perspective if you want to look at slightly larger minimum lot sizes on a percent basis. Chair Mathewson asked if there was consensus on denying it for HRO areas. There was unanimous consensus.

C Torre suggested that staff pick a minimum lot size for a secondary unit, and then for an administrative review the lot has to be an additional percentage over the average in the zone. C Parsons felt it should be across the board, not just for administrative space, and that they should ask staff to look at which zones should be set as a minimum, considering a percentage of lots in Belmont, and then, secondly, add a percentage on no matter what, so that to have a secondary unit in a 6,000 sf minimum district you have to have 6,000 sq.ft plus 30%. CDD Ewing stated that he likes the idea of a floor, however. I.e., 7,000 or 7,500 sf across the board or no less than 30% of the minimum of the zone. He was troubled by the average of the zone because staff would not know what the average of the zone was. He suggested that if they bring that language back they can do a check on the MetroScan data source for property information to provide the Commission with a sense of what the community is made up of by zone in terms of lot size. The consensus was that staff should proceed on that basis.

Regarding the parking issue, CDD Ewing suggested that the Commission limit themselves to just one space for either a studio or 1-bedroom unit and two spaces for a 2-bedroom unit. Responding to C Parsons' question, CDD Ewing stated that there is nothing in AB 1866 that requires them to allow 2-bedroom secondary units; however, he reminded the Commission that they would ultimately control the size of the units through floor area and parking issues rather than the floor plan. They'll be limited to 3,500-4,500 sf in any event and few people would be able to add a second unit without significantly constraining the size of their primary unit. He added that while disallowing 2-bedroom units is not prohibited, it would add one more restriction that may make the ordinance draw the attention of HCD and others. CDD Ewing added that the current ordinance allows the 2-bedroom unit. Discussion ensued, with no consensus reached as to whether

they should limit secondary units to studios and 1-bedroom units. CDD Ewing recommended that, since there is some ambivalence and the current policy has not been a problem, they should leave it as is.

C Torre asked if they had agreed that 275 sf should be the minimum size for a secondary unit. All Commissioners present concurred with that size.

Chair Mathewson asked if staff had thought about the PD zone issue, or if they would address it later. CDD Ewing stated his belief that the PD zone as a concept is not the issue because it is applied in a custom way each time – i.e., each PD application to the zoning map is its own zone, and if some of those PD zones are for single- and multi-family subdivisions, they become subject to this ordinance. CA Savaree concurred with that analysis. Regarding the multifamily zone, CDD Ewing stated that regardless of the zone (PD, R3 or R1) if the land is developed with one dwelling on it then a second unit has to be allowed, which would increase the number of units in the PD. He felt this could be done administratively, but that the one place that might cause problems is townhomes with individual lots but common walls. He is inclined to call them multi-family and staff will work on language to make that clear.

Regarding language to define a kitchen, C Long suggested that the language used by Daly City seemed reasonable. PP de Melo agreed to look at that in terms of what constitutes permanent improvements in a kitchen to create another definition for the zoning code.

Regarding a second door on the front elevation of a dwelling, CDD Ewing suggested that any front door entry for a second unit should trigger an automatic Design Review. The Commission concurred with that suggestion.

Regarding bedroom definitions, CDD Ewing suggested that, because it's going to show up in a couple of different places, staff will need to create a definition for a bedroom to put in the definition section, not buried within a parking standard.

Regarding the possibility of an amnesty program, CDD Ewing stated that amnesty implies that you give up something to get people to come in, and the City has not identified anything that they would want to give up. He was sure that Belmont would not be willing to set aside the building code for amnesty. PP de Melo added that it would be a massive, massive undertaking. Staff agreed to make some phone calls to obtain copies of amnesty programs that might be in effect in neighboring cities but that is all they plan to do at this point.

PP de Melo stated that he thought he had all the information he needed to be able to bring clarifying language back to the Commission, and that parking and bedroom definition issues will be discussed at a later date.

6. NEW BUSINESS:

6A. Single-Family Design Review

CDD Ewing presented the staff report, noting that it is short because it is about a year and a half into the program, and that this is the seventh staff report prepared on the topic. He believes the draft language follows the direction received from the Commission thus far, and he proposed incorporating any comments from this meeting and bringing the language back in ordinance form for a public hearing in November.

Responding to Chair Mathewson's question, CDD stated that this document does nothing for applicants, except to provide a clearer guidance on what the Commission's expectations are through findings and purpose statement.

C Torre asked if the fees would be lower. CDD Ewing responded that they would be to the extent that they will not have to pay for a separate grading review, multiple permits for tree removal, etc. This fee may go higher but a host of other fees will be eliminated. They will still have to pay for an arborist's report when trees are involved.

C Torre expressed her appreciation to staff for the enormous amount of work that has gone into this topic, but stated that CDD Ewing took the balanced concept into the Purpose section, but left the findings as absolute. She specifically referred to items 2, 3, 6 and 7 on pages 3 and 4 of the Draft Outline. I.e., "building bulk is minimized," "buildings and structures... are arranged to minimize," "the landscape plan incorporates, to the greatest degree possible," and "Only the minimum number of protected trees is to be removed". She suggested that the concepts of balance in the findings could be achieved with one change – if the findings discussed balance and then has subtopics numbered 2, 3, 6 and 7, leaving the rest, which are expressed as absolutes in terms of grading and site preparation. She feels that it may not be possible for the Commission to make a finding that the bulk has been minimized and the minimum number of trees has been cut. CDD Ewing felt that the word "minimum" is a relative statement, not zero. C Torre confirmed with the City Attorney that if they are independent of findings they are not allowed to trade them off legally – they have to make them all. C Torre is asking whether the Commission could support putting items 2, 3, 6 and 7 into a single finding. She added that when you put a balance statement in the beginning purpose that says there should be a balance among the following, but when you come to the findings, that same concept is not there because they are individual required findings. She does not agree that minimize is a relative term – relative to what? After further discussion, CDD Ewing agreed to come up with some language for the Commission to look at and so they'll have the option of looking at that language to see how they think the balancing can be expressed among those findings.

Referring to the section titled Applicability/Authority, C Torre stated that the current code for authority is not as strict as the proposed version, and she did not see why it should be changed. The current code, "Section 13, Purpose, states "New single-family homes, in addition to 400 square feet of floor area outside of the existing building envelope shall be subject to Design Review." The proposed ordinance states "new floor area of 400 square feet or more." Currently, if that new floor area is in a basement area where the outsides of the building are not being touched it is not subject to single-family Design Review. Her memory of this discussion from before was that the Commission did not want to lose someone up to a thousand square feet, but she did not think that they were proposing something that was actually more restrictive than what we have today. CDD Ewing responded that she is correct that the definition "new floor area of 400 square feet or more" is more inclusive than the current rule, and he stated that he did not do that intentionally. To be consistent with the current rule it would read "floor area of 400 square feet or more outside of the existing building envelope" and unless there's an objection that's what we will put in there. There was no objection.

C Torre stated that under Findings Required, #1, the language "and preserve solar access to abutting properties" is still there and needs to be removed.

C Torre asked for a definition of the term "Standards Conditions." CDD Ewing responded that these would be effectively boilerplate but these are conditions that apply to all projects, and so you can understand that all projects would have these conditions imposed on them. He added that the word should be "Standard," not "Standards." C Torre stated that changing the heading to Standard Conditions clarified the matter for her.

Chair Mathewson referred to the application submittal requirement under 1.d., "A map showing the boundaries of the subject parcel and each separate lot or parcel within 300 feet of the exterior boundaries thereof together with a list of the names and addresses of the last known owners of each lot or parcel..." He stated that he believed they had previously decided that staff was going to provide that information to the applicant for a slight fee. CDD Ewing replied that staff has not as yet been able to put that system together, and at this point the applicant is still expected to provide addresses, labels, envelopes and postage.

C Long asked about item 10.c, "Structural encroachment into the public right-of-way associated with the project are: c, Enhance the appearance of the public right-of-way." He would like to see "and/or safety" inserted after the word "appearance." He felt that when there is an opportunity to build sidewalks and/or pedestrian egress through the public right-of-way the City should strive to do that. CDD Ewing pointed out that the Commission's authority does not extend into the public right-of-way; this item is intended to give the Commission a chance to look at design issues with regard to encroachments but no more. C Parsons

interjected that the Commission can address the issue of safety by denying or recommending disapproval of a project if they feel it is a safety issue. C Long accepted that alternative.

C Long noted that he felt that C Frautschi would like to be involved in a review of the Single-Family Design Review process before it is finalized. CDD Ewing replied that it will come back to the Commission for a Public Hearing, at which time they will still be able to make changes if they so desire.

Chair Mathewson stated that he still finds it problematic that they talk about development on sloping areas in excess of 30% when the General Plan says it should be avoided if at all possible. He feels the phrase "to the greatest degree possible" in the landscape plan is not totally clear. CDD Ewing stated that they struggled with that and that it came from C Frautschi's desire to encourage, and encourage is of no value as a finding. He did not want to make it required throughout so they had to come up with some kind of balancing language to deal with it. There is nothing to prevent a Commission in the future from saying, based on this language, that every landscape plan should include nothing but native plants because it is possible to do. The question is, what is the balance? If you don't want them all to be native plants how do you know what's enough?

Regarding the tree issue, Chair Mathewson asked if it will be necessary to change the language in this document if the tree ordinance language gets revisited and becomes strengthened. CDD Ewing stated that it will not be necessary, and felt the Commission should finish this ordinance, and then any tweaks that come out of a future tree ordinance revision will be brought forward as corrections to the new single-family Design Review process.

Chair Mathewson asked why there is no statement in the document about quality architectural principles. CDD Ewing replied that it is because the Commission wasn't satisfied that the principles that staff brought to them had been adequately defined or presented with support of graphics. It would be a completely different project that they are not really geared up for. Chair Mathewson encouraged staff to keep that in mind as a project that might be a useful addition at some point in the future.

CDD Ewing will make the small changes that the Commission asked him to make and then will bring back some alternative language for the four findings that will tie them together into a balancing statement. He felt that findings 2, 3 and 7 deal primarily with site-planning issues, while 6 deals more with plant selection. He added that they might want to come up with a different way to deal with the native plant choice issue in the landscape plan. C Parsons stated that he did not agree with the idea of putting findings 2, 3 and 7 into one finding. C Gibson appreciated what C Torre was saying and is concerned about being overly restrictive; the word "minimize" is acceptable to him. C Long asked if the Commission will have the "wiggle room" to make the findings when they need to. He noted that they all bemoan the fact that they have this reputation of being a very tough town to get anything through the Planning process. C Parsons felt that contractors and realtors say that about whatever town they're working in.

CDD Ewing asked that they give him a chance to put some language together and he'll bring back two options from which they can choose.

6B Residential Parking Standards

CDD Ewing reviewed the staff report, noting that what he brought to them included only the recent actions by Council, not a detailed look at the ordinance or suggestions about any particular change.

Chair Mathewson asked if there are any other parts of this topic that people wanted to particularly address in a discussion of parking.

C Long asked if it goes hand in hand with the definition of a bedroom that we talked about earlier. CDD Ewing said that he believes it does, and to the extent that they have a definition of bedrooms today, it exists and would apply to second units and all other additions. The Commission has occasionally gotten into some of the difficulties of knowing when a bedroom becomes a bedroom with the current definition. Once they start looking at what a closet is, and can you have a bedroom without a closet, if they start to regulate that, unintended consequences start to happen. He believes the Commission needs to think long and hard about the issue of using bedrooms as a basis for regulating parking requirements and then defining bedrooms.

Chair Mathewson brought up the issue that has been identified at the last several meetings: houses of a certain square footage.

C Torre suggested that when there is a proposed addition in excess of a certain number of sf, a higher standard should be required. It bothers her when someone adds 1000-2000 sf and there isn't a dime put into upgrading parking. She also suggested that rather than defining a bedroom, when one bedroom is being added and the party is taking out a closet in what is currently designated as a bedroom, they would also have to open up a doorway to six feet or more so that it becomes a walk-through study, for example. – they would have to do something more major. She also felt that if someone is adding \$300,000-\$400,000 to the value of their house they should include a certain percentage for parking. She further suggested that consideration be given to allowing payment into a City fund to create more parking in neighborhoods. The development could either be blocked or charged an in-lieu fee that could be utilized for parking. CDD Ewing stated that the problem with that is finding a place to build it. He did think there is some merit to the idea of requiring a second car garage in the existing floor plan in some instances where the addition is substantial, especially if it's a second- story addition. Even if it were tandem and used for storage, at least there would be room for one car. C Torre felt that they could add some creative ideas that do not depend upon a bedroom definition.

CDD Ewing indicated that the problem with this discussion is that they do not have a zone text amendment to do anything with, and they do not have authorization from the Council to spend significant staff resources on the research that will be needed to make these changes.

C Dickenson reminded staff and the Commission that he had talked to a Burlingame Planner about an ordinance they have adopted as a result of parking issues when people built up and out. He suggested looking at Burlingame's document in order to avoid having to creating something from scratch.

C Gibson felt that tying parking to bedrooms is barking up the wrong tree – it's just too difficult to define and is too indirect. If we had the resources and time and direction, he would support looking at square feet or something different.

C Long agreed with part of what C Gibson said. He lives in a 5-bedroom house with no garage and has found that working with the City can be particularly onerous in trying to develop a garage plan that makes all the findings. He doesn't fault the City, staff or the Planning Commission as much as the fact that he has an unusual project. He doesn't know the solution but is not sure it needs to be tied directly to the number of bedrooms. He wants to be able to give the applicant a way out. Chair Mathewson reminded that they are supposed to be looking at properties, not at the people who live in them.

Staff agreed that the issue can be added to the agenda for the next meeting so that C. Frautschi will have a chance to provide his input.

7. REPORTS, STUDIES, UPDATES AND COMMENTS

CDD Ewing reported that City Council looked at the Vision Statement at their October 7th meeting, as well as the background report on the Economic Development Strategy. In two weeks Council will get the Strategy itself. He suggested that Commissioners might want to pay attention to the Council meetings and reminded them that the staff reports are available on the web, usually the Thursday afternoon before the meeting.

C Long asked about the activities at Safeway. CDD Ewing reported that they started doing the saw cutting of the concrete in front of the gate posts the other day, so it looks like they've begun the work. C Long asked staff to address the fact that the clock is nearly always inaccurate and different on all four sides and the noise coming from a fan in the turret facing City Hall needs to be repaired. Chair Mathewson added that he understands the contractor may still be violating the noise ordinance. CDD Ewing agreed to check with the Code Enforcement Officer.

C Long brought up the matter of a letter from Ms. Allen, stating that he assumes it will require Council action. PP de Melo will be meeting with her to discuss the parameters relative to submitting an application for a zone change.

C Long informed staff and the Commission that he will be away the bulk of the rest of the month and will miss the next meeting.

Responding to Chair Mathewson's question, PP de Melo stated that there will be two Design Reviews on the October 21st agenda, one involving a tree removal permit and a setback variance, and he believes there will also be a request for an extension of entitlements.

Chair Mathewson stated that he understand there will be an appeal of a decision of the Planning Director on the November 5th agenda. CDD Ewing explained that whenever someone disagrees with the determination of the Planning Director there is a process in the zoning ordinance that allows them to file an appeal asking the Commission to review that determination.

8. PLANNING COMMISSION LIAISON TO CITY COUNCIL MEETING OF TUESDAY,

OCTOBER 14, 2003.

Liaison: Commissioner Dickenson

Alternate Liaison: Commissioner Parsons

9. ADJOURNMENT:

The meeting adjourned at 10:05 p.m. to a regular meeting on October 12, 2003 at 7:00 p.m. at Twin Pines Senior and Community Center.

Craig A. Ewing, AICP

Planning Commission Secretary

Audiotapes of Planning Commission Meetings are available for review

in the Community Development Department

Please call (650) 595-7416 to schedule an appointment.